



Appeal Decision

Site visit made on 23 January 2024

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2024

Appeal Ref: APP/P4605/W/23/3326225

74 Harrow Road, Birmingham B29 7DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jurek Reda against the decision of Birmingham City Council.
 - The application Ref 2022/08332/PA, dated 8 November 2022, was refused by notice dated 23 January 2023.
 - The development proposed is described as "*Change of use from C4 HMO to 9-bed HMO (Sui-generis) with associated extensions (Extensions Part retrospective)*".
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Decision

1. The appeal is allowed and planning permission is granted for Change of use from 5-bed HMO (Use Class C4) to 9-bed HMO (Sui-generis) at 74 Harrow Road, Birmingham, B29 7DW, in accordance with the terms of the application, Ref 2022/08332/PA, dated 8 November 2022, subject to the following conditions:
 - 1) Within three months of the date of this decision, a secure and covered storage facility for nine cycles shall be provided within the curtilage of the property and shall be retained and kept available thereafter.
 - 2) The development hereby permitted shall not be occupied by more than nine persons at any one time.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. The description of development in the above banner header is taken from the application form. However, the parties agreed to change the description to "Change of use from 5-bed HMO (Use Class C4) to 9-bed HMO (Sui-Generis)". Therefore, I have determined the appeal on this basis notwithstanding the description in the banner heading.
4. The Council raise concerns about the accuracy of the submitted plans. In particular, it suggests that the original plans show a larger window in the side elevation of the kitchen. I observed at the time of the site visit that this elevation is a solid wall and has kitchen units installed. I have determined the appeal on this basis.

5. I also observed at the time of the site visit that the building was occupied as a nine-bedroom House in Multiple Occupation (HMO). I have dealt with the appeal on that basis.

Main Issue

6. The main issue raised by this appeal is whether or not the accommodation provides satisfactory living conditions for future occupiers, with regard to outlook.

Reasons

7. 74 Harrow Road is a large three-storey mid-terrace property located on a residential street in a high-density urban area. The property is an established HMO and has been extended recently, including a large single storey extension (the extension) to the rear. A small yard area is located to the front of the property, with a larger garden and yard area to the rear.
8. The property has nine bedrooms, each with an en-suite bathroom. The bedrooms are split over the ground floor, first floor and second floor. A communal dining / kitchen and living room (communal area) is located at ground floor, which has access to the front and rear of the property. The room provides a good sized communal space for the occupiers.
9. The communal area has a large roof lantern and a window in the rear elevation. However, the solid brick wall of the extension is immediately opposite the window, which reduces the amount of natural light into the communal area. Nonetheless, given the roof lantern, the communal area benefits from an appropriate amount of natural light.
10. The juxtaposition of the rear window with the extension results in the outlook being limited. However, this is not uncommon in high density urban areas, whereby there are often minimal separation distances between many ground floor windows and neighbouring properties, including the walls of buildings, as well as boundary walls and fences.
11. Furthermore, the bedrooms of the property all have windows that have an outlook towards the front, side, or rear, which suitably compensates for the lack of windows, with an appropriate outlook, in the communal area. In all other respects the Council confirms that the accommodation provides acceptable standards of amenity for the occupiers of the HMO.
12. Reference is made to previous appeal decisions, including two at 68 Harrow Road¹. The floor plans for that property have been provided and the layout of the communal areas appears relatively similar to the appeal scheme before me, including the number of windows and the outlook from them. Nonetheless, I have come to my own judgement based on the specific context of the appeal site, my observations, and the evidence before me.
13. For the above reasons, I conclude that the accommodation provides satisfactory living conditions for future occupiers, with regard to outlook. As such, the development does not conflict with Policy PG3 of the Birmingham Development Plan (2017) and Policy DM11 of the Development Management in Birmingham Development Plan Document (2021), which together and amongst

¹ APP/P4605/W/18/3207412 and APP/P4605/W/18/3207414

other things, seek to ensure that all new development provides high quality accommodation with adequate living space, that does not result in an unacceptable adverse impact on the amenity of occupiers.

14. Additionally, the development accords with the requirements of paragraph 135 of the Framework which requires the creation of places with a high standard of amenity for existing and future users.

Conditions

15. I have had regard to conditions suggested by the Council, as well as to the Framework and national Planning Practice Guidance (PPG). A time limit condition is not necessary as the use has already been implemented. For similar reasons, a condition stating the approved drawings is not necessary.
16. A condition limiting the maximum number of residents is necessary due to the size of the property and to ensure that an appropriate standard of living conditions is maintained.
17. I have also imposed a condition requiring the provision of parking and storage arrangements for nine cycle spaces to ensure that provision is made to encourage the use of sustainable modes of travel. Since the development has already been implemented, I have required this to be provided within three months of the date of this decision.

Conclusion

18. For the reasons given above, the development accords with the development plan as a whole and there are no material considerations to lead me to determine the appeal other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal is allowed.

N Bromley

INSPECTOR